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PATENT

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Art Unit: 1645

Examiner:  
Virginia Allen Portner

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7/29/03

Applicants: M. El-Sherbeini et al.  
Serial No.: 09/701,229 Case No.: 20193P  
Filed: 8/23/2001  
For: MURD PROTEIN AND GENE OF  
PSEUDOMONAS AERUGINOSA

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

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ON THE DATE APPEARING BELOW.

BY: MURKIN CO., INC.  
REGISTRATION NO.: 40,407  
DATE: July 18, 2003

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

This is in response to the Office Action mailed June 18, 2003. No fee is believed to be due. However, the Commissioner is authorized to charge any required fees or credit overpayments to Deposit Account No. 13-2755. Applicant requests reconsideration and re-examination in view of the amendments and remarks presented herein.

**REMARKS**

The Examiner has requested restriction of Claims 1-14 into Groups I-V. Applicant provisionally elects to prosecute Group I, claims 1-7, with traverse.

The Examiner states that the invention lacks unity in light of prior art disclosing a natural MurD mutant of SEQ ID NO 2, produced by E.coli, etc., as cited in the International Search Report, October 21, 1999, and therefore the disclosed polynucleotide and polypeptide do not define a unifying special technical feature. (Action at page 2). Applicant respectfully traverses.

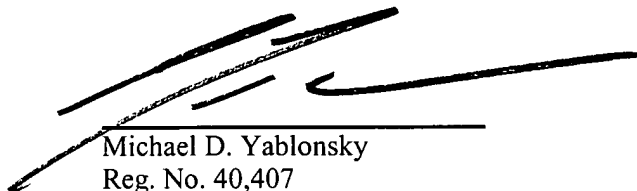
The Examiner's use of the terminology "natural MurD mutant" to state that a MurD gene from E. coli is a mutant of the MurD genes of Pseudomonas aeruginosa

claimed in this application is far outside the commonly accepted definition of "mutant." Indeed, Applicant is not aware of any use of the terms "mutant" or "natural mutant" to describe the relationship between related gene from different genera of bacteria. Such usage is believed to be wrong.

Therefore, the Examiner's position is wrong and the polynucleotides and polypeptides of this invention are a unifying special technical feature as between Groups I and II and the methods of using those sequences expressed in the claims of Group III.

Applicant respectfully requests withdrawal of the requirement for restriction as between Groups I – III, Claims 1-11.

Respectfully submitted,



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Date: July 18, 2003